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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,385	05/15/2001	Jheroen P. Dorenbosch	PF02177NA	8937

			EXAMINER
23447	7590	10/22/2003	MEHRPOUR, NAGHMEH

MOTOROLA INC
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ART UNIT	PAPER NUMBER
2686	

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ___3___ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Jul 18, 2003* _____ .

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-12 and 14-20* _____ is/are pending in the application.

    4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-12 and 14-20* _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some* c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

4) ☐ Interview Summary (PTO-413) Paper No(s). _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the
> United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by
> another filed in the United States before the invention by the applicant for patent, except that an international application
> filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed
> in the United States only if the international application designated the United States and was published under Article
> 21(2) of such treaty in the English language.

2.   **Claims 1-2,** are rejected under 35 U.S.C. 102(e) as being anticipated by Aravamudan et

al. (US Patent Number 6,301,609 B1).

Regarding **claims 1-2,** Aravamudan teaches a method of emerging Instant Messaging (col 2 lines

60-63), comprising:

causing a mobile subscriber to register with an instant message system prior to

participating in an instant message session (col 5 lines 5-9),

indicating availability of the mobile subscriber to buddies of the mobile subscriber (col 7

lines 1-8),

receiving an instant message intended for the mobile subscriber from one of the buddies (col 5

lines 25-31), and

dropping the instant message intended for the mobile subscriber from the one of the

buddies if the mobile subscriber does not receive the instant message after the instant message is

resent a predetermined number of times (col 7 lines 63-67).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth
> in section 102 of this title, if the differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

4.   **Claims 3-5, 7,** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Aravamudan et al. (US Patent Number 6,301,609 B1).

Regarding **claim 3**, Aravamudan teaches a mobile subscriber instant message system,

comprising;

an instant proxy for receiving registration information from a mobile subscriber and for

subsequently indicating to registered system subscribers participating in an instant message

session that the mobile subscriber is available for receiving instant messages (col 2 lines 31-38),

Aravamudan allows for a high degree of control to be retained by the user, through the user of

instant Messaging, to direct delivery of data and communications (col 9 lines 34-45). For

example upon notification of a pending event of received data or communications by the

communication service platform, the user may select to reject communication or to have data

forwarded to Messaging system or elect to conference parties (col 11 lines 35-45). Aravamudan

does not teach the instant Messaging proxy resending an instant message intended for the mobile

subscriber if the subscriber received no response. However Examiner takes official notice that

since Aravamudan teaches high level of control retained by the user. Therefore, it have been

obvious to one of ordinary skill in the art at the time of the invention to program the system that

the instant proxy resend another message if a buddy send a message and not received any

response from the mobile, in order to provide more accurate system by resending the second

messages, when there is not a response.

Regarding **claims 4-5,** Aravamudan teaches a mobile subscriber instant message system wherein

the instant message proxy is located an instant message server (See figure 1, numerals 120, 130),

and the instant message proxy is located in proximity a mobile system gateway (See figure 1,

numerals 130, 126).

Regarding **claim 7,** Aravamudan teaches a mobile subscriber instant message system further

comprising a log in server with which the mobile subscriber must register prior to participating in

an instant message session, the log in server for indicating to the registered system subscribers

participating in the instant message session that the mobile subscriber is available for receiving

instant messages (col 7 lines 33-37, col 8 lines 56-63).

5.   **Claim 6,** is rejected under 35 U.S.C. 103(a) as being unpatentable over Aravamudan et al.

(US Patent Number 6,301,609 B1) in view of Drottar et al. (US Patent Number 6,333,929 B1).

Regarding **claim 6,** Aravamudan teaches a mobile subscriber instant message system wherein the

instant message proxy (col 2 lines 32-38, col 7 lines 41-49). Aravamudan fails tot each that

Proxy includes at least one of a timer and a counter programmed to limit the instant message

from being sent to the mobile subscriber for at least one of only the predetermined number of times and within a predetermined time period. However Drottar teaches a timer and a counter programmed to limit the message from being sent to remote device for the predetermined number of times and within a predetermined time period (col 9 lines 40-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Drottar method with Aravamudan, in order to enhance the system performance by providing more accuracy.

6.   **Claims 8-20,** are rejected under 35 U.S.C. 103(a) as being unpatentable over Aravamudan et al. (US Patent Number 6,301,609 B1) in view of Mawhinney (US Patent Number 6,091,710).

Regarding **claims 8-9, 17, 19-20,** Aravamudan teaches a method of a service providers client access to one or more plurality of client premises equipments (CPE) 140, the CPE can be a wireless phone, and service provider can be PSTN. Communications and data can be exchange between the CPE and PSTN via switch module 124 or routing module 122 (see figure 1). An Instant Messaging system is utilized to provide new and useful features and services for clients (col 4 lines 54-64). A communication service platform (CSP) is registered with the IM server as a 'buddy" to the subscriber client. The location of subscribers CPE is located by the CPS 160, the CPS initiates communications to the subscribing client via instant messages, and the CPS solicits a response from the subscribers CPE (col 5 line 15-31). The method comprising: notifying the mobile subscriber when instant message parameters reach a predetermined limit (col 10 lines 23-

31). When the subscribers are off line, all others (buddies) who have identified the user as a

buddy are notified that the user is not online and is not available (col 10 lines 11-15).

Aravamudan fails to teach that queuing instant messages intended for the mobile subscriber

while the mobile subscriber is not registered with the instant message system, and facilitating

connection of the mobile subscriber to the instant message system to enable the mobile

subscriber to retrieve the queued instant messages. However Mawhinney teaches a method of

reducing data queuing instant messages intended for data packets that are transmitted in

accordance with Internet protocol (abstract).TCP is utilized at the transport layer to provide flow

control utilizing message acknowledgments (col 8 lines 19-20). Three nodes are illustrated in

Figure 4, an upstream node 160 (Mobile unit), and intermediate node, which also provide

queuing function, or a down stream node 162, and a destination node end-point 164 (Instant

Messaging) (col 9 lines 30-35). The intermediate node 162 (queuing function) is capable of

identifying acknowledgments from the end point 164 (Instant Messaging) by the information

contained in the TCP header. In figure 5, shows five messages have been transmitted by the

upstream node (Mobile Unit) without receiving acknowledgments from queuing. The upstream

160 (Mobile unit) waits to receive acknowledgments, thereafter transmits messages on a one-to-

one basis. Once limit of queuing is reached maximum, then Mobile would not transmit further

message until another message (acknowledgments) is received. Another word the intermediate

node (Mobile Unit) starts transmitting messages to IM service when the queuing is reached to

Maximum number. For example upon max transmission of seven (n=5), having received only

four acknowledgments, the upstream nodes (Mobile units) waits receipt of the fifth

acknowledgment (col 10 lines 32-65). Then when the maximized Queuing is reached, Mobile

starts establishing connection between mobile subscriber and instant message service. Therefore,

it would have been obvious to one of ordinary skill in the art at the time of the invention to

combine Mawhinney method with Aravamudan, in order to establish connection between Mobile

unit and Instant Messaging service while avoiding excess queuing message for IM (col 11 lines

35-45). Aravamudan allows for a high degree of control to be retained by the user, through the

user of instant Messaging, to direct delivery of data and communications. For example upon

notification of a pending event of received data or communications by the communication

service platform, the user may select to reject communication or to have data forwarded to

Messaging system or elect to conference parties.The combination of Aravamudan and

Mawhinney does not teach a method wherein notifying the mobile subscriber when **a buddy**

sends a second message intended for the mobile subscriber subsequent to sending a first

unanswered message, the second message being different from the first unanswered

message. However, Examiner takes official notice that since Aravamudan teaches high level of

control retained by the user. Therefore, it have been obvious to one of ordinary skill in the art at

the time of the invention to program the system wherein when **a buddy sends a second message**

intended for the mobile subscriber subsequent to sending a first unanswered message, the

second message being different from the first unanswered messag, in order to provide more

accurate system by resending the different message, when there is no response to the prior message.

Regarding **claims 10-12, 14-15,** Aravamudan does not specifically mention that notifying the

mobile subscriber when queued instant message parameters reach a predetermined limit

comprises notifying the mobile subscriber when a predetermined number of buddies send

messages intended for the mobile subscriber within a predetermined amount of time. However

Mawhinney teaches the notifying the mobile subscriber when queued instant message parameters

reach a predetermined limit (col 11 lines 1-9 and abstract) comprises notifying the mobile

subscriber when a predetermined number of buddies send messages intended for the mobile

subscriber within a predetermined amount of time (col 10 lines 42-65). Mawhinney teaches that

once the system threshold has reached, for example the system threshold is five, five messages

have been transmitted by upstream node, without receiving acknowledgments the upstream node

waits to receive acknowledgment, (waiting times is the predetermined times). The five messages

are queued for a certain amount of time (waiting period) till an acknowledgment received, and

thereafter transmits messages. Therefore, it would have been obvious to one of ordinary skill in

the art at the time of the invention to use Mawhinney teaching to Aravamudan, in order to

improve the performance by better bandwidth utilization.

Regarding **claim 16,** Aravamudan fails to teach a method wherein the predetermined limit in the

notifying the mobile when queued instant message parameters reach a predetermined limit is

based at least in part on mobile subscriber-based instructions. However Mawhinney teaches the

notifying the mobile subscriber when queued instant message parameters reach a predetermined

limit (col 11 lines 1-10) comprises notifying the mobile subscriber when a predetermined number

of buddies send messages intended for the mobile subscriber within a predetermined amount of

time (col 10 lines 42-65). Mawhinney teaches that once the system threshold has reached, for

example the system threshold is five, five messages have been transmitted by upstream node,

without receiving acknowledgments the upstream node waits to receive acknowledgment,

(waiting times is the predetermined times). The five messages are queued for a certain amount of

time (waiting period) till an acknowledgment received, and thereafter transmits messages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention to use Mawhinney teaching to Aravamudan, in order to improve the performance by

better bandwidth utilization.(col 7 lines 35-44, col 9 lines 1-5).

Regarding **claim 18,** Aravamudan fails to teach a method further comprising downloading the

queued instant messages intended for the mobile subscriber when one of a high priority instant

message is received and the mobile subscriber sends an outgoing message. However Mawhinney

teaches a method comprising: downloading the queued instant messages intended for the mobile

subscriber when one of a high priority instant message is received and the mobile subscriber

sends an outgoing message (col 2 lines 25-36, col 10 lines 42-65). Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to use Mawhinney teaching

to Aravamudan, in order to achieve better bandwidth utilization, and provide better feasibility for

the system.

Response to Arguments

7.   Applicant's arguments filed 7/18/03 have been fully considered but they are not

persuasive.

In response to applicant's argument that the references fail to show certain features of

applicant's invention, it is noted that the features upon which applicant relies (i.e., a buddy that

sends multiple message without regard for whether an answer is received) are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification, limitations

from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993).

In response to the applicant's argument that the reference fails to teach that "notifying the

mobile subscriber when a buddy sends a second message intended for the mobile subscriber

subsequent to sending a first unanswered message, the second message being different from the

first unanswered message. Aravamudan allows for a high degree of control to be retained by the

user, through the user of instant Messaging, to direct delivery of data and communications. For

example upon notification of a pending event of received data or communications by the

communication service platform, the user may select to reject communication or to have data

forwarded to Messaging system or elect to conference parties or to make new calls or set it up

that buddy to send another message (col 9 lines 35-44, col 11 lines 35-45). However, user can

program his mobile phone if buddy sends a second message intended for the mobile subscriber

subsequent to sending a first unanswered message, the second message being different from the

first unanswered message. Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention to combine the above teaching to the combination of Aravamudan

and Mawhinney, in order to provide more accurate system by resending the second messages,

when there is not a response.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will the statutory

period for reply expire later than SIX MONTHS from the mailing date of this final action.

9.   **Any responses to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications indented for entry)

Or:

(703) 308-6306, (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II. 2121 Crystal

Drive,   Arlington. Va., sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the technology Center 2600 Customer Service Office whose telephone

number is (703) 306-0377.

Any inquiry concerning this communication or earlier communication from the examiner

should be directed to Melody Mehrpour whose telephone number is (703) 308-7159. The

examiner can normally be reached on Monday through Thursday (first week of bi-week) and

Monday through Friday (second week of bi-week) from 6:30 a.m. to 5:00 p.m.

If attempt to reach the examiner are unsuccessful the examiner's supervisor, Marsha

Harold-Banks be reached (703)308-5576.

NM

Oct 20, 2003

Marsha O Banks-Harold
MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600